O. F. 71 & 72—70,000—14-7-30

C.F. 71 & 72.

1933

Department of Land Revenue

OFFICE Board of Revenue

STATION Madras

Mis **No.** 2440

Dated 23-1-33

A 3[illegible]

To whom sent

Pages in the file

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(SUBJECT.)

Village Sanitation Act - (South Kanara) Coondapur Taluk - Levy of Water Rate - Remission - Arrears of pay - Reference from Collector - Orders passed

Not to be filled in in the case of permanent records.

1

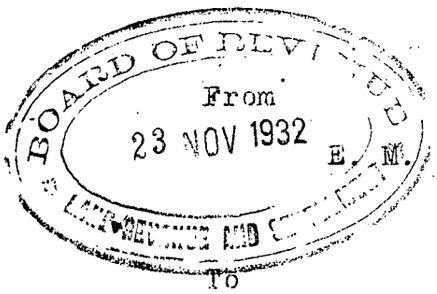
RP68

A. 3879

R.O.C.A--1--9923--32.

South Kanara Collector's Office,

Mangalore, dated 20th November 1932.



From

E. M. Gawne, Esq, I.C.S.,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue & Settlement,

Madras.

S i r,

Village Officers:- Headman--Coondapur Taluk-village--Dismissal--Restoration to office--Arrears of pay--claim.

Cheraappa Bhatta, the Potail of Kergal Village, Coondapur Taluk who was first placed under suspension on 5th October 1931 and later on dismissed, was restored to his office in pursuance of the order in B. P. Mis. 2729 dated 13.9.1932. The facts of the case were reported in this office letter D.Dis. 7164--32, dated 24th August 1932 in reply to Board's reference A--2190-32-1, dated 2nd August 1932.

2. The Potail accordingly rejoined duty on 5th October 1932 and now claims the arrears of pay from 5th October 1931 to 4th October 1932 on the ground that the High Court has acquitted him and the Board has cancelled the order of dismissal. The arrears come to Rs.156/- at Rs.13/- per month for 12 months.

3. Under note 3 to Article 49 of the Special Funds Code read with rule 54 of the Fundamental Rules, it is the authority restoring the Village Officer on appeal that has to decide whether he should receive any pay for the period he was out of employ. I, therefore, solicit Board's orders on the matter.

4. The records noted in the margin are enclosed for favour

of reference and return.

1. Coondapur Sub Collector's (7) R.Dis. 736-32/2.5.1932.

2. This office D. Dis. 5232-32/ (V) 8th June 1932.

Your obedient servant,

Collector.

Subject

FOR MEMBER. Village Establishments (South Kanara)
Coondapur Tq Peng - Vice - Headman
Bheidappa Bhatta - Arrears of pay

READ AGAIN B. P. No. _____ dated _____ 193

_____ _____ 193

READ ALSO :—

Register No. ___ From the A 3879/32, No. 1 Cf, dated Q 193

" " _____, " " _____, _____, " _____ 193

" " _____, " " _____, " _____ 193

RESOLUTION. Refee A 3879/32-1 / 1 Cf 6-12-32 No. _____, dated _____ 193

The Collector is requested to report on the following :—

i) whether a substitute was appointed during the period the Headman was out of employ and if so, what amount was paid to the substitute and

ii) whether the Collector recommends the payment of the arrear salary.

KS
5/12/32

6/12/32

Remind coll. 7-1-33

DESPATCHED
8 DEC 1932

To
The Collector of
South Kanara

5

R. O. C. A--1--9923-32. A 1114

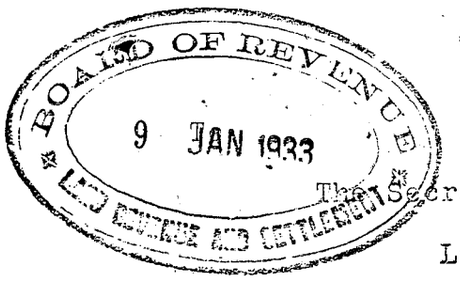
South Kanara Collector's Office,

Mangalore, dated 4th January 1933.

From

E. M. Gawne, Esq, I.C.S.,

Collector of South Kanara.



The Secretary to the Board,

Land Revenue & Settlement,

Madras.

Sir,

Village Officers: --Headman--Coondapur Taluk--Kergal village --Dismissed--Restoration to office--Arrears of pay--Particulars furnished.

b3c4 Ref: Board's Ref. No. A--3879-32-1, dated 6th December 1932.

As regards point (i) the following particulars are furnished. Petitioner Cherdappa Bhatta was out of employ from 5.10.31 to 4.10.32. During a portion of this period the neighbouring potel of Heranjal was acting from 5.10.31 to 14.3.32 but he was paid only Rs.39/- as charge allowance for 3 months from 5.10.31 to 4.1.32 and the balance of Rs.30-3-0 for the period from 5.1.32 to 14.3.32 was treated as savings as he was not entitled to charge allowance for over three months. A substitute was appointed from 15.3.32 and he acted till 4.10.32. He was paid a total amount of Rs.86-13-0 for the period at the rate of Rs.13/- a month. Thus the total amount paid to the substitutes including charge -- allowance comes to Rs.125-13-0.

2. As regards point (ii) I cannot say that this was a case of honourable acquittal. The potel was convicted of murder by poisoning on circumstantial evidence in the Sessions Court. In appeal the High Court held that there were circumstances of suspicicion against the potel but no direct evidence. At any rate it is quite clear that if the potel did not poison his concubine he made no attempts to discover who did. If it had been really the woman's husband who poisoned her the potel would, by

C

virtue of his office, have been in a good position to bring the man to justice. Perhaps it was by very virtue of his office that the parents came to bury the body quietly and it was only exhumed in consequence of an anonymous petition.

Your obedient servant,

Collector.

Enclosures

1. Judgment in S.C. No. 36/1931 (1)
2. High Court Judgment in Referred Trial No. 170 of 1931. (2)

Subject. 7

B. F. XXII-A-19—28,004—15-8-32.(6)

F. R MEMBER. Village Establishments - (South Kanara) Coondapur Tk - Kergal Vaddy Headman - Chandappa Bhatta - Reinstated - Arrears of pay - Reference from the Collector - orders passed

READ AGAIN B. P. No. _____ dated _____ 193 .

" " " _____ " " _____ 193 .

READ ALSO :-

Register No. _____, From the A 3879/32 p No cf, dated Q 193

Bd's Ref A 3879/32/1 dy 6-12-32 p. 3 cf Q

" " _____, " " A 114/33 pp. 5-6, cf, " Q 193

" " _____, " " _____, " _____, " _____ 193

RESOLUTION. Mis No. 249 dated 23-1-33 193 .

The Board considers that if the Dt. Magistrate or Collector does not propose to frame charges against the headman, it is necessary to pay him the balance of pay which has already been paid to substitute. The Collector reports that an amount of Rs 156-0-0 was due to the headman for the period he was out of employment and that an amount of Rs 125-13-0 was paid to the substitute. The Board therefore sanction

the payment of the balan
viz Rs 30-3-0 (Rupees Thirty
Kb. 20/1/33 to the head
19/1/33 Cashier of the Collec-
tor

17-1-33

To
The Collector of
South Kanara
with records returned
(B) lists at pages 2 and 6

Note File

'Village' Establishment - (South Kanara) Coondapur Tlc - Kerbal Vge - Headman Chendappa Poolla - Arrears of pay

A. 3879/32 p 1 c4.

To A.S

Please see the Collector's letter at p 1 c4. The headman was restored to office in pursuance of the order in B.P. Mis 2729 of 13.9.32. He now claims back pay amounting to Rs. 156/-.

2). The allowance of a full pay or part of it is a matter within the discretion of the Board. The Collector has not reported if a substitute was appointed. Some precedents regarding the grant of back pay are given below:

(i) B.P. 277 Mis of 4-2-26 - Not allowed

(ii) B.P. 2742 Mis of 23-9-27 - ~~granted~~

(iii) B.P. 3113 Mis of 21-10-27. - granted

(iv) B.P. 4115 Mis of 6-12-28 - granted

(v) B.P. 2949 Mis of 9-10-30 - granted

(vi) B.P. 6556 Rt of 3-12-31. - granted

For favour of orders.

K.S 28/11

26/11/32 The headman was acquitted of the charge of murder and his dismissal was set aside P. for the period from

Jm 28/11/32

4-10-32. may be sanctioned

5

(J) - not granted as he did no work during the period.

(E) - p.10 N.F. - not granted. reason given by office being that Bd. does not generally grant it — (J) above referred to.

(I) - p. 46 N.F. - granted as it was. bi mistake to take away an innocent man's pay.

(H) - p. 2 N.F. - ~~pay slip no. 2125, 3-7-28.~~ charges found to be unsustainable

((J) & (E) quoted).

(M) - p. 2 N.F. - granted as charges had not been proved.

(U) - p. 2 N.F. - same as (M)

There are in chronological order: it is clear that Bd's policy has crystallized in recent years into granting back pay on grounds noted under (e.g.) (M) above. In the present case it may be granted.

A.H./29.11.32

what was held & what does

1st

C.S. 2/12/32

S. E. Y.
5 - DEC 1932

To A.S.

Draft Submitted

K.S.
5/12/32.

6/12/32

Bdl. Ref. A-3829/32 /1. & 4-12-33.

pp 5-6 cf.

M.
S
AS (L/R)
this' & section.
11-1-33 11.1.33

TO A.S.

Please see the Collector's reply to the two points raised in the Board's reference at p. 3 cf. Obviously he does not recommend payment of the arrear salary.

For orders.

KS
11/1/33 11/1/33

12-1-33.

S In ~~Record~~ ⓞ, Ist turned down Collr's order over the question of procedure and left it to Collr. to decide whether to frame charges (p. 4 N.F. of ⓞ). Here, Collr. obviously refers to p. 5 of the judgmt. at ② – part marked by Sri. Hussain: I think his view shld. be upheld: to his comments, I wld. add that (on the charge of omission to give information) there is very great force in the Sessions Judge's remark at the top of p. 4 of ⑦ – it is, I think, only reasonable to hold that the anonymous letr. is proof that it was common talk in the village that there had been foul play – talk that must have reached the Patwari's ears.

Advd/14.1.33

Ist

To A.S.

Draft submitted.

KS.
19/1/33 20.1.33

14-1-33

A.S(L.R)
Thro' Sr. Section
20.1.33 20.1.33